

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 7287 of 2001

Between:

1. Smt. Valiveti Andalamma (Died),
W/o. Sri V.D.Vasthala Rao, aged 76 years,
C/o.Brindavan Rice and Flour Mill,
Kothapeta, Nuzvid, Krishna district.

2. V.Sai Sarveswara Rao,
S/o.Late V.D. Vasthala Rao, 28 years,
R/o. Nuzvid, Krishna district.

3. K. Vijaya sree, W/o. Ramesh Babu, 33 years,
R/o.Brodipet, Guntur.

(Petitioners 2 and 3 are brought on record as L.Rs. of the deceased petitioners as per orders in

W.P.M.P.No.21448 of 2002, dated 26-9-2002)

..... PETITIONERS

AND

1. Government of India, Ministry of Finance,
Department of Economic Affairs, New Delhi,
Rep. by its Secretary.
2. Department of Posts, Office of the Supdt. of Post Office,

Gudivada Division, Gudivada, Krishna District, rep. by
Its Superintendent.

3. The Post Master, Head Savings, Head Post Office,
Nuzvid, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ or direction declaring the order of the 2nd respondent passed in SB/NSC/CR/2000, dated 20-10-2000 confirming the order of the 2nd respondent passed in OL NO.41/SBCD, dated 28-7-2000 as illegal, arbitrary and without jurisdiction and consequently to direct the respondents to return the amount with interest from the date of maturity lying in the Account No.352 with the 3rd respondent post office and pass such order or further orders as the Hon'ble Court feels deem fit and proper in the facts and circumstances of the case.

Counsel for the Petitioners : MR. O.MANOHER REDDY

**Counsel for the Respondents : MR.A.RAJASHEKAR REDDY
(ASST.SOLICITOR GEN.)**

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.7287 OF 2001

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ORDER :

The petitioner has deposited a sum of Rs.2,04,000/- and Rs.1,02,000/- under the Public Monthly Income Scheme started by the Postal Department under Account Nos.351 & 352 respectively. Both the said accounts were opened on 22-08-1994 and it is not in dispute that she was paid the monthly interest regularly upto July, 2000. While so, the third respondent – The Post Master, Head Savings, Nuzvid Post Office by letter dated 28-7-2000 informed the petitioner that since the accounts opened by the petitioner exceeded the maximum limit, the Account No.352 which was irregularly opened has to be closed and a sum of Rs.78,455/- towards the excess paid interest upto the date has to be recovered since

the said account was going to be matured in August, 2000. It was also stated that the bonus payable will also be recovered and the account will be closed by paying the net amount of Rs.23,545/-. Aggrieved by the same, the petitioner made a detailed representation to the 2nd respondent – Superintendent of Post Offices, Gudiwada Division, bringing to his notice that she was not informed by the agent that the two accounts which were opened on the same day shall not exceed the maximum limit of Rs.2 lakhs and that she was also paid the interest on both the accounts regularly without raising any objection at any point of time and therefore the recovery of interest in respect of A/c.No.352 may not be affected. In response to the same, by letter dated 20-10-2000 the second respondent informed the petitioner that as per the Post Office (Monthly Income Account) Rules, 1987 framed by the Government of India in exercise of the powers conferred by Section 15 of the Government Savings Bank Act, 1873 which came into force with effect from 15-08-1987, a depositor can open more than one account under the Rules subject to the condition that the deposits in all the accounts taken together shall not exceed Rs.2 lakhs in single account and Rs.4 lakhs in joint account and since she had opened two accounts exceeding the limit prescribed, she is not entitled for interest / bonus so far as A/c.No.352 is concerned. It was reiterated that Account No.352 opened by her was in contravention of the Rules and therefore the proposal of the third respondent to recover the interest paid to her in respect of the said account was in order. Aggrieved by the said action of the respondents, this writ petition is filed seeking a declaration that the order of the 2nd respondent dated 20-10-2000 confirming the order of the third respondent dated 28-7-2000 as arbitrary and illegal.

The contention of the petitioner is that the respondents having failed to raise any objection at the time of opening of the accounts and having paid the monthly interest regularly during the entire deposit period of six years are not justified in raising the objection after the deposits are matured. It is pointed out that the petitioner was not informed about the rule position either by the agent or by the respondent and strangely even the commission amount was also paid to the agent by the department and therefore the action of the respondents in seeking to deduct the amount already paid towards interest from the maturity amount is arbitrary and illegal.

On behalf of the respondents, a counter-affidavit has been filed in which it is admitted that both the accounts were opened by the petitioner on 22-8-1994 and the monthly interest amounts were also paid regularly to her. However, the plea of the petitioner that she was not informed about the rule position either by the agent or by the department has been denied and it is stated that the petitioner made a declaration in the application while opening the Account No.352 stating that she will keep the balances in her accounts single or joint at any time within the limits specified in the relevant rules. If an account is opened through an authorised agent, it would be construed that the depositor is made known of the details of the scheme. In the application for opening of the accounts also, the depositor made a declaration that she will keep the balances in all her accounts within the limits specified in the rules. As such, the petitioner is fully conversant with the rule position. It is also stated that under the rules it has been clearly mentioned that if an account is found to have been opened in contravention of the rules on the subject the account should be closed immediately without any interest and the interest already paid will be recovered and the commission paid to the agent will also be recovered. Hence, the impugned action is in accordance with law and the writ petition is liable to be dismissed.

I have heard the learned Counsel for the petitioner as well as the learned Standing Counsel appearing for the respondents, and perused the material on record.

Admittedly, by the date of the opening of the accounts by the petitioner under the Public Monthly Income Scheme on 22-8-1994, the Post Office (Monthly Income Account) Rules, 1987 are already in force. Under the said Rules, a person can open more than one account subject to the condition that the deposits in all the accounts taken together shall not exceed Rs.2 lakhs in single account and Rs.4 lakhs in joint accounts. It is not in dispute that the petitioner has opened two accounts on the same day and if both are taken together, the same exceed Rs.2,00,000/-. Thus, the second account (i.e., A/c.No.352) opened by the petitioner is in contravention of the statutory rules. In the circumstances, the action of the 3rd respondent in taking steps to close the said irregular account and seeking to recover the interest already paid, which is in consonance with the statutory rules cannot be said to be either arbitrary

or illegal. The mere plea that the petitioner was not aware of the rule position cannot be taken as a ground for issuing Mandamus to the respondents compelling them to act in contravention of the Statutory Rules.

However, the learned Counsel for the petitioner states that under the Statutory Rules the Central Government is empowered to relax the requirement of the statutory rules on being satisfied that the operation of any of the provisions of the said rules causes undue hardship to the depositor and therefore the 1st respondent may be directed to relax the rule in favour of the petitioner. It is for the first respondent to take an appropriate decision in accordance with law, if any such request is made by the petitioner.

Accordingly, the Writ Petition is disposed of leaving it open to the petitioner to make an appropriate application before the 1st respondent for redressal of her grievance by relaxing the rules. If any such application is made within four weeks from today, the 1st respondent shall consider the same and pass appropriate orders in accordance with law as expeditiously as possible preferably within a period of four weeks thereafter. No costs.

10th June, 2005.

Gbs

To

1. The Secretary, Government of India, Ministry of Finance,
Department of Economic Affairs, New Delhi.
2. The Superintendent, Department of Posts, Office of the Supdt. of Post
Office, Gudivada Division, Gudivada, Krishna District.
3. The Post Master, Head Savings, Head Post Office,
Nuzvid, Krishna District.
4. Two CD copies.